



Chairman Ajit Pai
Commissioner Mignon Clyburn
Commissioner Michael O’Rielly

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

In the Matter of Policies Regarding Restoring Internet Freedom

Re: WC Docket No. 17-108

April 28, 2017

Dear Chairman Pai and Commissioners Clyburn and O’Rielly:

The Internet Innovation Alliance (the “Alliance”) has long been concerned about the impact of internet regulation on investment and innovation. In 2010, in urging the Commission to dismiss its Notice of Proposed Rulemaking and focus instead on achieving the ambitious goals of the National Broadband Plan, we noted that “[a]t this decisive moment in the American broadband revolution, we should strive to give greater certainty to telecom investors and innovators and rally support to the collective push for universal access and adoption, rather than advancing divisive regulations that increase investors’ uncertainty.”¹

Those concerns remain even more urgent in light of the Commission’s unwise adoption of new rules in 2015 reclassifying broadband under Title II of the Communications Act. In light of Chairman Pai’s decision to circulate a draft of proposed new rules to his colleagues and to the public for consideration at the May 2017 Open Meeting of the Commission, we file the enclosed documents (a statement the Alliance made in response to the remarks of Chairman Pai proposing this issue for consideration by the Commission and an opinion piece on regulation of broadband) as initial comments for inclusion in Docket 17-108, “Restoring Internet Freedom.”

We look forward to further participation in this docket.

¹ Reply Comments of Internet Innovation Alliance (filed April 26, 2010), in *In the Matter of Preserving the Open Internet Broadband Industry Practices*, GN Docket 09-191, available at <https://ecfsapi.fcc.gov/file/7020424617.pdf>.



Sincerely,

A handwritten signature in black ink that reads "Rick Boucher". The signature is written in a cursive style with a large, prominent "R" and "B".

Rick Boucher
Former Congressman (D-VA) and Honorary Chairman, Internet Innovation Alliance

A handwritten signature in black ink that reads "Bruce Mehlman". The signature is written in a cursive style with a large, prominent "B" and "M".

Bruce Mehlman
Co-Chairman, Internet Innovation Alliance

A handwritten signature in black ink that reads "Jamal Simmons". The signature is written in a cursive style with a large, prominent "J" and "S".

Jamal Simmons



The FCC's Welcome Change of Course

by [IIA](#) April 26, 2017

IIA statement responding to FCC Chairman Ajit Pai's speech at the Newseum on his plans to roll back Title II and to restore the light-touch regulatory framework for the internet established by President Bill Clinton and Congressional Republicans with the 1996 Telecommunications Act:

"This week, the FCC begins a new chapter in a long debate over the future of the internet. Our position is clear: We favor an open internet, including core network neutrality requirements that assure the ability of internet users to access the content of their choosing without interference from Internet Service Providers. Edge providers rely on net neutrality guarantees to reach their customers, and ISPs have fully incorporated these principles into their business operations.

"Monopoly-style regulation from the days of rotary phones is simply inappropriate in today's competitive, innovative broadband marketplace. The Hundt, Kennard, Powell, Martin, and Genachowski Commissions were correct when they declared and/or affirmed broadband as an information service, and the FCC was wrong when it later made the decision to place it under Title II. Their bipartisan agreement in favor of light-touch regulation fueled the explosive growth of the internet ecosystem. Returning to that framework will offer many benefits to the American people by encouraging investment in broadband networks, which will also spur job and economic growth.

"Congress should enact bipartisan compromise legislation that gives legal certainty to network neutrality and re-affirms broadband is an information service. Congressional action will provide the predictable framework needed for investment and avoid an endless cycle of re-regulation and de-regulation.

"We commend the Commission for beginning this work."



The perfect: enemy of the good?

By Former Rep. Rick Boucher (D-Va.), Opinion Contributor - 04/26/17

Healthcare is again center stage. A look at another long-ago healthcare debate offers lessons about how we can improve politics, process, and policymaking today, well beyond that recurring issue.

Against the backdrop of Richard Nixon's epic fall, it's too often forgotten that in 1974 — in the midst of Watergate — he proposed a national healthcare system that was more far-reaching than President Obama's Affordable Care Act, which became law a third of a century later.

As president, Nixon worked secretly with then-Sen. Ted Kennedy (D-Mass.) to craft a compromise that could pass Congress — but, in the end, it was not to be. The negotiations failed in the face of pressure from both sides. But for a window in time, the potential for success was real.

Instead of accepting victory and a dramatic reduction of the uninsured population as most Democrats wanted, the intransigence of a few kept almost 50 million Americans uninsured, and the country waited another 36 years for comprehensive healthcare reform. It's hard to imagine a clearer example of the unachievable perfect being the enemy of the achievable good.

If Nixon could work with Kennedy, then why can't people of goodwill on both sides work together today? As just one example where our current Congress has an opportunity for bipartisan agreement on a matter of national importance, I'd like to suggest the increasingly pointless debate over just which process should be used for protecting "net neutrality."

After more than a decade of often partisan debate, there now is broad consensus that federal law should assure an open internet with broadband providers respecting the right of consumers to access content without interference. Broadband providers have fully integrated net neutrality principles into their network operations, and internet companies depend on it to reach their customers. Respect for net neutrality has become business as usual.



A Democratic-led FCC adopted a net neutrality rule using longstanding statutory authority in 2010, but that was not enough for some on the left who fought to have broadband providers reclassified under Title II of the Communications Act, utility-style regulation designed for the monopoly telephone era. Partly in response to these calls, early in 2015, another Democratic-led FCC applied Title II to broadband.

Before the rule change, it was argued that Title II would create regulatory uncertainty and deter investment. Following Title II reclassification, there was a marked reduction in broadband expenditures by the major carriers. Now, it's virtually certain that the Republican-led FCC will adopt a rule eliminating Title II regulation of broadband unless Congress acts first. Less certain is whether a new FCC rule would adequately protect net neutrality principles. In the absence of a statute putting the matter to rest, a return to the wearisome "Title II Net Neutrality" debate at the FCC the next time a Democrat is elected president is also likely.

Just as in 1974, when a window existed for bipartisan approval of a sweeping healthcare reform, today's Congress has an equally promising opportunity to pass legislation putting the net neutrality debate to rest. The formulation is simple and offers each side victory in achieving its major goal. Democrats would receive permanent statutory protection for strong net neutrality protections. Republicans would receive permanent classification of broadband as an information service regulated lightly under Title I of the Communications Act. Most importantly, a debate that began in the middle of the last decade would finally end.

Kennedy came to realize, too late, that he should have made a deal based on Nixon's proposals. In fact, he said that not doing so was his greatest regret.

In his plea for reform, Nixon wrote, "let us act sensibly." That plea resonates as fully for broadband deployment in 2017 as it did for healthcare in 1974. Those on the Democratic left should not let their view of the "perfect" net neutrality solution be the enemy of the good and the achievable. It's better for Congress to act sensibly, adopt bipartisan net neutrality legislation and at last bring finality to a fruitless debate.

Boucher was a Democratic member of the House for 28 years and chaired the Energy and Commerce Committee's Subcommittee on Communications and the Internet. He is honorary chairman of the Internet Innovation Alliance and head of the government strategies practice at the law firm Sidley Austin.